

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DONNELL TAYLOR,

Plaintiff,

-against-

THE CITY OF NEW YORK AND JOHN and JANE DOE
1-10, individually and in their official capacities, (the
names John and Jane Doe being fictitious, as the true
names are presently unknown),

Defendants.
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ANSWER

Jury Trial Demanded

07CV 4129 (DAB)

Defendant City of New York, by its attorney, Michael A. Cardozo, Corporation
Counsel of the City of New York, for its Answer to the Complaint, respectfully alleges, upon
information and belief, as follows:

1. Denies the allegations set forth in paragraph "1" of the Complaint, except
admits that plaintiff purports to bring the action and proceed as stated therein.
2. Denies the allegations set forth in paragraph "2" of the Complaint, except
admits that plaintiff purports to bring the action as stated therein.
3. Denies the allegations set forth in paragraph "3" of the Complaint, except
admits that plaintiff purports to invoke the jurisdiction of this Court as stated therein.
4. Denies the allegations set forth in paragraph "4" of the Complaint, except
admits that plaintiff purports to base venue as stated therein.
5. The allegations set forth in paragraph "5" of the Complaint do not
constitute a factual averment to which a response is required.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “6” of the Complaint.

7. Denies the allegations set forth in paragraph “7” of the Complaint, except admits that Defendant City of New York is a municipal entity created and authorized under the laws of the State of New York.

8. Denies the allegations set forth in paragraph “8” of the Complaint, except admits that the City of New York maintains a police department.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “9” of the Complaint.

10. Paragraph “10” of the Complaint sets forth conclusions of law rather than averments of fact and accordingly no response is required.

11. Paragraph “11” of the Complaint sets forth conclusions of law rather than averments of fact and accordingly no responses is required.

12. Paragraph “12” of the Complaint sets forth conclusions of law rather than averments of fact and accordingly no response is required.

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “13” of the Complaint.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “14” of the Complaint, except defendant admits that plaintiff was arrested at the corner of 143rd Street and 7th Avenue on March 11, 2006.

15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “15” of the Complaint

16. Denies the allegations set forth in paragraph “16” of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth regarding any alleged injuries.

17. In response to the allegations set forth in paragraph “17” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “16”, inclusive of this answer, as if fully set forth herein.

18. Paragraph “18” of the Complaint sets forth conclusions of law rather than averments of fact and accordingly no response is required.

19. Denies the allegations set forth in paragraph “19” of the Complaint.

20. Paragraph “20” of the Complaint sets forth conclusions of law rather than averments of fact and accordingly no response is required.

21. Denies the allegations set forth in paragraph “21” of the complaint.

22. Denies the allegations set forth in paragraph “22” of the complaint.

23. In response to the allegations set forth in paragraph “23” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “22”, inclusive of this answer, as if fully set forth herein.

24. Denies the allegations set forth in paragraph “24” of the Complaint.

25. Denies the allegations set forth in paragraph “25” of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth regarding physical injuries.

26. In response to the allegations set forth in paragraph “26” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “25”, inclusive of this answer, as if fully set forth herein.

27. Denies the allegations set forth in paragraph “27” of the Complaint.

28. Denies the allegations set forth in paragraph “28” of the Complaint.

29. Denies the allegations set forth in paragraph “29” of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth regarding physical injuries.

30. In response to the allegations set forth in paragraph “30” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “29”, inclusive of this answer, as if fully set forth herein.

31. Denies the allegations set forth in paragraph “31” of the Complaint.

32. Denies the allegations set forth in paragraph “32” of the Complaint.

33. In response to the allegations set forth in paragraph “33” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “32”, inclusive of this answer, as if fully set forth herein.

34. Denies the allegations set forth in paragraph “34” of the Complaint.

35. Denies the allegations set forth in paragraph “35” of the Complaint.

36. In response to the allegations set forth in paragraph “36” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “35”, inclusive of this answer, as if fully set forth herein.

37. Denies the allegations set forth in paragraph “37” of the Complaint.

38. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “38” of the Complaint

39. In response to the allegations set forth in paragraph “39” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “38”, inclusive of this answer, as if fully set forth herein.

40. Denies the allegations set forth in paragraph “40” of the Complaint.

41. Denies the allegations set forth in paragraph “41” of the Complaint.

42. In response to the allegations set forth in paragraph “42” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “41”, inclusive of this answer, as if fully set forth herein.

43. Denies the allegations set forth in paragraph “43” of the Complaint.

44. Denies the allegations set forth in paragraph “44” of the complaint.

45. Denies the allegations set forth in paragraph “45” of the complaint.

46. Denies the allegations set forth in paragraph “46” of the complaint.

47. Denies the allegations set forth in paragraph “47” of the complaint.

48. Denies the allegations set forth in paragraph “48” of the complaint.

49. Denies the allegations set forth in paragraph “49” of the complaint.

50. Denies the allegations set forth in paragraph “50” of the complaint and all subparts thereto.

51. Denies the allegations set forth in paragraph “51” of the complaint.

52. In response to the allegations set forth in paragraph “52” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “51”, inclusive of this answer, as if fully set forth herein.

53. Denies the allegations set forth in paragraph “53” of the Complaint, except Defendant admits that on June 14, 2006 a document purporting to be a notice of claim was served upon the Comptroller’s Office for the City of New York.

54. Denies the allegations set forth in paragraph “54” of the Complaint, except Defendant admits that there has been no adjustment or payment on plaintiff’s claims.

55. Denies the allegations set forth in paragraph “55” of the Complaint, except admits the Complaint was filed with the Court on or about May 29, 2007.

56. Denies the allegations set forth in paragraph “56” of the complaint.

57. Paragraph “57” of the Complaint sets forth conclusions of law rather than averments of fact and accordingly no response is required

58. In response to the allegations set forth in paragraph “58” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “57”, inclusive of this answer, as if fully set forth herein.

59. Denies the allegations set forth in paragraph “59” of the Complaint.

60. Denies the allegations set forth in paragraph “60” the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth regarding physical and mental pain and injuries.

61. In response to the allegations set forth in paragraph “61” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “60”, inclusive of this answer, as if fully set forth herein.

62. Denies the allegations set forth in paragraph “62” of the Complaint.

63. Denies the allegations set forth in paragraph “63” the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth regarding physical and mental pain and injuries.

64. In response to the allegations set forth in paragraph “64” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “63”, inclusive of this answer, as if fully set forth herein.

65. Denies the allegations set forth in paragraph “65” of the Complaint.

66. Denies the allegations set forth in paragraph “66” of the Complaint.

67. Denies the allegations set forth in paragraph “67” of the Complaint.

68. Denies the allegations set forth in paragraph “68” of the Complaint.

69. Denies the allegations set forth in paragraph “69” the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth regarding physical and mental pain and injuries.

70. In response to the allegations set forth in paragraph “70” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “69”, inclusive of this answer, as if fully set forth herein.

71. Denies the allegations set forth in paragraph “71” of the Complaint.

72. Denies the allegations set forth in paragraph “72” of the Complaint.

73. In response to the allegations set forth in paragraph “73” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “72”, inclusive of this answer, as if fully set forth herein.

74. Denies the allegations set forth in paragraph “74” of the Complaint.

75. Denies the allegations set forth in paragraph “75” of the Complaint.

76. In response to the allegations set forth in paragraph “76” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “75”, inclusive of this answer, as if fully set forth herein.

77. Denies the allegations set forth in paragraph “77” of the Complaint.

78. Denies the allegations set forth in paragraph “60” the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth regarding disposition of defendant’s criminal proceedings.

79. In response to the allegations set forth in paragraph “79” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “78”, inclusive of this answer, as if fully set forth herein.

80. Denies the allegations set forth in paragraph “80” of the Complaint.

81. Denies the allegations set forth in paragraph “81” of the Complaint.

82. In response to the allegations set forth in paragraph “82” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “81”, inclusive of this answer, as if fully set forth herein.

83. Denies the allegations set forth in paragraph “83” of the Complaint.

84. In response to the allegations set forth in paragraph “84” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “83”, inclusive of this answer, as if fully set forth herein.

85. Denies the allegations set forth in paragraph “85” of the Complaint.

86. In response to the allegations set forth in paragraph “86” of the Complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “85”, inclusive of this answer, as if fully set forth herein.

87. Denies the allegations set forth in paragraph “87” of the Complaint.

88. Denies the allegations set forth in paragraph “88” of the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

89. At all times relevant to the acts alleged in the Complaint, the duties and functions of defendant’s officials entailed the reasonable exercise of proper and lawful discretion. Therefore, the City of New York is entitled to governmental immunity from liability.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

90. Any injury alleged to have been sustained by plaintiff resulted from plaintiff’s own culpable or negligent conduct or that of a third party and was not the proximate result of any act of the defendant.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

91. There was probable cause and/or reasonable suspicion for plaintiff’s stop, arrest and/or detention.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

92. Punitive damages cannot be assessed as against the City of New York.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

93. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

94. At all times relevant to the acts alleged in the complaint, defendant acted reasonably in the proper and lawful exercise of its discretion.

WHEREFORE, defendant City of New York requests judgment dismissing the Complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
August 24, 2007

MICHAEL A. CARDOZO
Corporation Counsel of the City of New York
Attorney for Defendants City of NY
100 Church Street,
New York, New York 10007
(212) 788-0711

By: 

David M. Pollack(DP3873)
Assistant Corporation Counsel.

To: Brett Klein, Esq.
Leventhal & Klein, LLP
Attorneys for Plaintiff
45 Main Street, Suite 820
Brooklyn, NY 11201